

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1766 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI  
and  
Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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SHREYANSKUMAR ALIAS S C SHAH

Versus

STATE OF GUJARAT  
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Appearance:

MR KS NANAVATI for Petitioners  
M/S PATEL ADVOCATES for Respondent No. 1  
MR SN SHELAT for Respondent No. 3  
Mr.K.G. Sheth,AGP, for the respondents  
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CORAM : MR.JUSTICE M.H.KADRI  
and  
MR.JUSTICE C.K.BUCH

Date of decision: 16/03/2000

ORAL JUDGEMENT

1. Petitioners, by filing this petition under Article 226 of the Constitution of India, have prayed to issue appropriate writ, direction or order quashing and setting aside impugned notifications produced at Annexure "C" and "B" to the petition.

2. As per the averments made in the petition, the petitioners are owners of land bearing Survey N.1827 situated at Surendranagar, which came to be acquired for public purpose of expansion of 'industrial estate' of Gujarat Industrial Development Corporation. For that purpose, notification under Section 4 (1) of the Land Acquisition Act, 1894, ('Act' for short), was issued on April 10, 1980. After following procedure under Section 5-A of the Act, declaration under Section 6 of the Act was made on January 1, 1983.

3. The main contention of the petitioners is that the Land Acquisition Officer had not considered their objections filed under Section 5-A of the Act, nor any oral hearing was given to them before making report under Section 5A(2) of the Act. It is, therefore, submitted by the petitioners that the respondents had violated mandatory provisions as contained in Section 5-A of the Act and, therefore, notifications issued under Sections 4 and 6 of the Act deserve to be quashed and set aside.

4. Respondent No.2, Officer on Special Duty (Land Acquisition) of Gujarat Industrial Development Corporation by filing affidavit in reply, has, inter alia, contended that the petitioners' name did not appear in the government revenue record as owners of the land under acquisition and the petitioners had purchased said land from one Himatlal Vallabhbhai and Nagindas Vallabhbhai after issuance of notification under Section 4(1) of the Act. It is submitted that, as the petitioners' names did not appear in the revenue record, the petitioners cannot agitate that no notices were served on them and no personal hearing was given to them before submitting report by the Land Acquisition Officer under Section 5A(2) of the Act. This fact is not denied by the petitioners by filing further affidavit in rejoinder. Hence, at the relevant time, as the petitioners' name did not appear in the revenue record, the petitioners cannot urge or contend that no hearing was afforded to them under Section 5A of the Act.

5. Learned counsel for the petitioners has tried to contend that, as there was gap of more than two years between issuance of Section 4 and Section 6 notification, the whole acquisition procedure should be quashed. We

are afraid that this contention cannot be permitted to be raised for the first time by the petitioners as such contention is not taken in the memo of the petition.

6. These were the only contentions raised by the learned counsel for the petitioners.

5. As a result of foregoing reasons, this petition fails and is rejected. Rule is discharged with no order as to costs. The interim relief is vacated.

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(swamy)